

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

**GEORGE MARSCHINO,** )  
Petitioner, )  
vs. ) C.A. No. 08-348 Erie  
RAYMOND J. SOBINA, et al., )  
Respondents. ) Magistrate Judge Baxter

**OPINION AND ORDER**

Chief Magistrate Judge Susan Paradise Baxter

**I. INTRODUCTION**

\_\_\_\_ This is a petition for writ of habeas corpus, pursuant to 28 U.S.C. § 2254, filed by a state prisoner presently incarcerated at the State Correctional Institution at Albion in the Western District of Pennsylvania. On December 12, 2008, Petitioner consented to the jurisdiction of the United States Magistrate Judge. [Document # 3].

In his petition, Petitioner George Marschino claims that he was convicted of Criminal Trespass in Philadelphia County, Pennsylvania, on or about July 6, 2001, and was sentenced on February 15, 2002, to serve 17 to 60 months imprisonment. As grounds for habeas relief, Petitioner challenges the legality of his conviction, claiming that his trial counsel was ineffective and that he is actually innocent of the crime of which he was convicted.

**II. DISCUSSION**

Title 28 U.S.C. §2241(d) provides that where an application for a writ of habeas corpus is made by a person in custody under the judgment and sentence of a state court of a state which

contains two or more federal judicial districts,

the application may be filed in the district court for the district wherein such person is in custody or in the district court for the district within which the state court was held which convicted and sentenced him and each of such district courts shall have concurrent jurisdiction to entertain the application. The district court for the district wherein such an application is filed in the exercise of its discretion and in furtherance of justice may transfer the application to the other district court for hearing and determination.

28 U.S.C. §2241(d). See also, Bell v. Watkins, 692 F.2d 999 (5th Cir. 1982) (the district court transferred the action on the basis of the magistrate's recommendation which indicated that the district where the defendant was convicted was the more convenient forum because of the accessibility of evidence).

In the case at bar, Petitioner was tried and convicted of the challenged offenses in Philadelphia County, Pennsylvania. Petitioner's records are located there. He is presently incarcerated at the State Correctional Institution at Albion, within the Western District of Pennsylvania. Philadelphia County is located in the Eastern District of Pennsylvania. This Court finds that the interests of justice would be better served by transferring this petition to the Eastern District of Pennsylvania wherein all activity in this case occurred.

### **III. CONCLUSION**

For the reasons set forth above, IT IS HEREBY ORDERED that the instant petition for writ of habeas corpus be TRANSFERRED forthwith to the United States District Court for the Eastern District of Pennsylvania pursuant to 28 U.S.C. §2241(d). The Clerk is directed to close

the case.

S/Susan Paradise Baxter  
SUSAN PARADISE BAXTER  
Chief U.S. Magistrate Judge

Date: December 22, 2008